

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

Gordon Hempton,

Plaintiff,

v.

Pond5 , Inc., a Delaware Corporation; and
Pond5 user ckennedy342, a corporation or
individual of type unknown,

Defendants.

NO. 3:15-cv-05696-RBL

DECLARATION OF ROGER M.
TOWNSEND IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

NOTE ON MOTION CALENDAR:
May 20, 2016

Roger M. Townsend states:

I am an attorney licensed to practice before the courts of the State of Washington. I represent Plaintiff Gordon Hempton. I have personal knowledge of the facts stated herein and am competent to testify to these facts.

1. Attached hereto as **Exhibit 1** is a true and correct copy of the March 22, 2016 deposition of Pond5's 30(b)(6) representative Thomas Crary at pertinent pages.

2. Attached hereto as **Exhibit 2** is a true and correct copy of Pond5 seller FAQs, available at <https://www.pond5.com/sell-stock-footage>.

3. Attached hereto as **Exhibit 3** is a true and correct image taken from Pond5's homepage, available at <https://www.pond5.com/>.

4. Attached hereto as **Exhibit 4** is a true and correct copy of Pond5 Contributor Tips webpage, available at <https://blog.pond5.com/5425-contributor-tips-what-to-create-this-month-and-what-to->

DECLARATION OF ROGER M. TOWNSEND IN
SUPPORT OF OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT - 1

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[avoid/?utm_medium=socialfree&utm_source=facebook&utm_campaign=contributor-advice%20&utm_content=blog-post.](#)

5. Attached hereto as **Exhibit 5** is a true and correct copy of Pond 5 Content License Agreement.

6. Attached hereto as **Exhibit 6** is a true and correct copy of Pond5's Terms of Use.

7. Attached hereto as **Exhibit 7** is a true and correct copy of list of payments from Pond5 to ckennedy342.

8. Attached hereto as **Exhibit 8** is a true and correct copy of a Pond5 Product Announcement from January 20, 2015.

9. Attached hereto as **Exhibit 9** is a true and correct copy of a spreadsheet regarding ckennedy342's activity and aliases compiled by Pond5 during its fraud investigation.

10. Attached hereto as **Exhibit 10** is a true and correct copy of an internal Pond5 audit memo from April 23, 2015.

11. Attached hereto as **Exhibit 11** is a true and correct copy of Pond5's Supplemental Objections, Answers and Responses to Plaintiff's Interrogatory No. 3.

12. Attached hereto as **Exhibit 12** is a true and correct copy of the June 24, 2015 letter from Plaintiff's counsel Nicholas Power to Pond5 Inc.'s general counsel.

13. Attached hereto as **Exhibit 13** is a true and correct copy of the June 30, 2015 Email from Mike Pace to Plaintiff's counsel Nicholas Power.

14. Attached hereto as **Exhibit 14** is a true and correct copy of Tom Crary's email to Mr. Hempton dated October 16, 2015.

15. Attached hereto as **Exhibit 15** is a true and correct copy of correspondence between user "Wild Audio Production" and Pond5 in May 2014.

16. Attached hereto as **Exhibit 16** is a true and correct copy of Pond5's pricing sheet.

17. Attached hereto as **Exhibit 17** is a true and correct copy from Pond5's FAQ page regarding why files get rejected.

Dated this 16th day of May, 2016 in Seattle, Washington.

By: s/Roger M. Townsend
 Roger M. Townsend, WSBA # 25525
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 Seattle, WA 98104
 Tel: 206-652-8660
 rtownsend@bjtlegal.com
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Jamie Telegin
Jamie Telegin, Legal Assistant